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February 14, 2009

Clerk,  
Michigan Supreme Court  
Post Office Box 3052  
Lansing, Michigan 48909

Re: ADM File No 2007-07 and ADM File No 2006-43

Dear Sir,

I would like to advise the court of my objections to the proposed revision of MCR 2.112 resulting in a dismissal of the action if the Affidavit of Merit is defective. In today's litigation atmosphere, you are punishing the wrong party by dismissal.

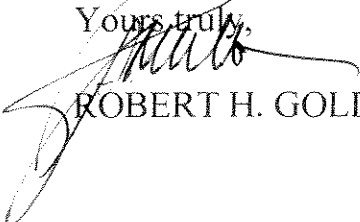
While the attorney is the one who has filed an inappropriate Affidavit of Merit, dismissal only doubles the client's bill for costs. Where there are multiple defendants who have been served, the costs could easily exceed several hundred dollars which the client would have to repeat if the case were to be dismissed (assuming the statute of limitations is not a factor). I suggest what I believe to be a far better alternative:

1. Allow the plaintiff's attorney one opportunity to re file his affidavit without penalty.
2. If the second filing of an Affidavit of Merit leads to a finding that the Affidavit is somehow deficient, dismissal is then appropriate.

There are far too many lawyers chasing what business is out there resulting in attorneys inexperienced in medical malpractice matters to take whatever they can get rather than whatever they are competent in handling.

This is the true problem which neither the court nor the law schools are addressing. Each year thousands more attorneys are let loose on the public resulting in more litigation without substantial merit and incompetent handling of many matters. Until the court addresses this problem it's just going to get worse.

Yours truly,

  
ROBERT H. GOLDEN

